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Supreme Court, U.S.
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No. 05-

IN THE

# Supreme Court of the United States

BILL BADI GAMMOH, MEGHANN LARA ANN ONSELEN, LESLIE WEST, ARMINE MICHELLE BEDROSIAN, CHRISTINE JOHANNA FEHER, CHRISTINE JOCELYN YOCIUS-ESCALONA, CHARBONESSE GARRETT, HEATHER ELOISE ELAM, and STACY JOY ANDRE,

*Petitioners*,

*v.*

CITY OF LA HABRA,

*Respondent.*

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

## PETITION FOR A WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

This case concerns the regulation of "adult cabaret dancing," the most modest and innocuous form of "adult entertainment." By definition, "adult cabaret dancers" are clothed, do not depict sexual acts, are not touched by patrons on their breasts or other intimate body parts, and do not perform in venues where alcohol is served.

"Adult cabaret dancer" is further defined on the basis of the general "orientation" and "focus" of the dancer's performance. Also, an "adult cabaret dancer" must maintain a distance of two feet from patrons while she is dancing, although she may approach and even touch them whenever she is not expressing herself through dance. Petitioners challenge the constitutionality of the restriction based on the dancer's "orientation" and movements, as well as the two-foot distance requirement. They do not challenge the limitations on physical contact.

The Ninth Circuit upheld the constitutionality of the ordinance, relying on cases involving nude and topless performances and the groping of dancers' intimate parts by patrons. The decision conflicts with rulings of other Courts of Appeals regarding the profound differences between nude and clothed entertainment, the regulation of abstract dance movements, and the quality of evidence required to sustain an adult-use ordinance.

The petition raises the following questions:

1. May a municipality, consistently with the vagueness and overbreadth doctrines, regulate clothed no-contact dancing in adult-entertainment venues by describing the restricted dances solely in general terms relating to the undefined "sexual orientation" and "focus" of the dancers' movements?

2. May a municipality regulate the general expressive nature of the movements of clothed no-contact dances in adult-entertainment venues?

3. May a municipality preclude clothed performers in adult-entertainment venues who approach but do not touch patrons from expressing themselves through the medium of dance when the municipality does not contend that the dances cause adverse secondary effects?

4. May a municipality restrict clothed no-contact dancing in adult-entertainment venues solely on the basis of studies of the secondary effects of nude entertainment in other jurisdictions, while ignoring extensive data, already in its possession at the time of enactment, proving that adult entertainment within its own borders does not cause adverse secondary effects?

## LIST OF PARTIES

The petitioners are individuals. They are Bill Badi Gammoh, Meghann Lara Ann Onselen, Leslie West, Armine Michelle Bedrosian, Christine Johanna Feher, Christine Jocelyn Yocius-Escalona, Charbonesse Garrett, Heather Eloise Elam, and Stacy Joy Andre. Petitioner Gammoh does business as the Taboo Gentlemen's Club, formerly known as the Pelican Theater.

The respondent is the City of La Habra, California.

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